

**THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

DAVID HATCHIGIAN AND
JOAN RANDAZZO

vs.

COUNTY OF PHILADELPHIA,
COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY,
CARRIER CORPORATION and
PEIRCE-PHELPS

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CIVIL ACTION NO. 20-4110

ORDER

AND NOW, this day of , 2021, upon consideration of the F.R.C.P. 12(b) Motion of Defendant, Peirce-Phelps, LLC to Dismiss Plaintiffs' Amended Complaint, and any response thereto, it is hereby ORDERED and DECREED that the Motion of Defendant, Peirce-Phelps, LLC is hereby GRANTED and Plaintiffs' Amended Complaint is dismissed, with prejudice.

BY THE COURT:

J

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CIVIL ACTION NO. 20-4110

**MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)**

Moving Defendant, Peirce-Phelps, LLC, by and through its counsel, James F. Ryan, Esquire, files this Motion to Dismiss pursuant to both F.R.C.P. 12 (b) (1) for lack of subject matter jurisdiction based on the Rooker-Feldman doctrine, and lack of diversity and also pursuant to F.R.C.P. 12 (b)(6), as on the face of Plaintiffs' Amended Complaint, the applicable statutes of limitations have expired.

In addition, plaintiffs' claim under the Magnuson Moss Warranty Act must fail for lack of subject matter jurisdiction as plaintiffs have failed to meet the damages threshold set forth in the Act. Finally, plaintiffs' claims must be barred pursuant to Res Judicata as the allegations set forth in Plaintiffs' Amended Complaint against Peirce-Phelps, LLC have already been litigated and a final Order has been entered.

In support of its Motion, defendant, Peirce-Phelps, LLC incorporates by reference its Memorandum of Law as though fully set forth herein at length. Moving defendant, Peirce-Phelps, LLC, respectfully requests dismissal of Plaintiffs' Amended Complaint, with prejudice.

Respectfully submitted,

LAW OFFICE OF JAMES F. RYAN

By: _____
JAMES F. RYAN
Attorney for Defendant,
Peirce-Phelps, LLC